

**A Citizen's Guide
To Kentucky's Courts**



JUSTICE IN OUR COMMONWEALTH

Justice In Our Commonwealth

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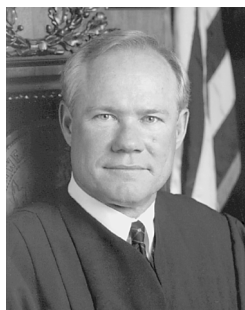
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Dear Citizens of the Commonwealth:

In general, the judicial system and the American legal process have been misunderstood by many citizens. This handbook is designed to answer some of your questions about Kentucky's Court of Justice, one of the state's three branches of government, and to familiarize you with its operation.



Because government is a servant of the people, it is vitally important that Kentuckians understand how it works. The judicial branch of government guards our constitutional rights as citizens of this state and the United States of America. Only through knowledge and awareness of our justice system can we support and defend its principles and learn to use them properly.

This citizen's guide will provide you with a better understanding of your state court system. I know it will prove useful to you.

Sincerely,

A large, stylized handwritten signature in dark ink, which appears to read "Joe E. Lambert". The signature is fluid and cursive, with a large loop at the beginning and end.

Joseph E. Lambert
Chief Justice
Kentucky Supreme Court

INTRODUCTION

This handbook is designed to present Kentuckians, especially those who may be involved in current or future court proceedings, with a better understanding of Kentucky's court system.

In 1975, Kentucky voters elected to unify the Commonwealth's fragmented judicial system by supporting a constitutional amendment to the Judicial Article. The new article provided for a unified, four tiered court system, called the Court of Justice. It consists of two appellate levels and two trial levels.

The handbook examines your rights as a citizen in court, levels of court, judges, judicial support staff, citizen participation in the court system and court-related agencies.

Many people who come into contact with the courts are unfamiliar with the judicial system and are unaware of how the court system can protect their rights. Kentuckians play a part in the court system; whether they receive parking tickets, are victims of theft, are parties to a divorce, or are called to jury service.

Use this handbook to help you understand how the Kentucky Court of Justice works for you.

YOUR RIGHTS IN COURT

All Kentuckians are born with certain constitutional rights. It is a good idea to know these rights regardless of whether you are ever involved in court proceedings. If an individual is arrested and charged with a crime, the person has certain constitutional rights, including the following:

The right to a trial by jury: Everyone accused of a crime in Kentucky is presumed innocent unless proven guilty. Everyone has the right to a trial by a jury of their peers.

The right of the accused in criminal prosecution: In addition to the right of trial by jury, everyone has the right to be represented by an attorney, to know the exact charge against them, to present witnesses and not to incriminate themselves. Everyone also has the right to a trial in a different venue if it is believed that a fair trial cannot be conducted in the county where the criminal charge originated.

The right against double jeopardy: If a person is found guilty of a crime and serves the sentence imposed upon him or her, that person cannot be subject to new or additional sentencing or punishment for having committed the original offense.

The right to a speedy trial: All persons have the right to a quick, impartial trial without delay.

The right to bail: All persons charged with crimes in the Commonwealth have the right to bail. This right may not be applied in capital offense cases. Excessive bail is prohibited by our constitution.

The right to appeal: If a person is not satisfied with the trial court judge's ruling or jury's finding, he or she may appeal to a higher court in both criminal and civil cases. Cases involving the death penalty or imprisonment for 20 years to life are appealed directly to the state Supreme Court.

LEVELS OF COURT IN KENTUCKY

There are four levels of court in Kentucky. These levels are divided into appellate and trial courts. Appellate courts include the Supreme Court, the state's court of last resort, and the Court of Appeals, an intermediate appellate court. The trial courts are divided into circuit courts, which have general jurisdiction, and the district courts, which have limited jurisdiction.

The Appellate Courts

The Supreme Court is the court of last resort and the final interpreter of state law. It hears appeals of decisions from the lower state courts. Cases which involve the death penalty, life imprisonment or imprisonment for 20 years or more go directly from the circuit court level, where the cases are tried, to the Supreme Court for review. All other cases, except workers' compensation appeals, reach the Supreme Court by grant of discretionary review. Kentuckians have the right to one appeal per law suit to a high court. Beyond this one "matter of right" appeal, further appeals are discretionary and the appellate court may refuse to review such cases.

A case which comes before the Supreme Court is not retried. The attorneys present the case through written briefs and oral arguments, which address the legal issues the Court must decide. After a decision by the state Supreme Court, a case can only be appealed to the United States Supreme Court.

Seven justices review cases as a panel and issue written decisions or "opinions" on cases. The justices are elected from seven appellate districts and serve eight-year terms. A Chief Justice is chosen for a four-year term by his or her colleagues. The Chief Justice is the administrative head of the state's court system and is responsible for its operation.

Additionally, the Supreme Court establishes rules of practice and procedure for the Court of Justice, which includes the conduct of judges and attorneys.

The second appellate court is the Court of Appeals. Nearly all cases come to the Court of Appeals on appeal from a lower court, either district or circuit. Some cases, including criminal case acquittals and the granting of divorces, may not be appealed. The case is not retried at this level. Instead, the original trial record is reviewed, with attorneys presenting the legal issues to the court for a decision.

Fourteen judges, two elected from each of the seven appellate districts, serve on the Court of Appeals for terms of eight years. The judges are divided into panels of three to review and decide cases, with the majority determining the decision. The panels do not sit permanently in one location, but move about the state to hear appeals.

Trial Courts

The circuit court is the court of general jurisdiction and hears civil matters involving more than \$4,000.00. Circuit courts have jurisdiction over cases involving capital offenses and felonies, divorces, adoptions, terminations of parental rights, land dispute title problems and contested probates of will. Circuit courts have the power to issue injunctions, writs of prohibition, writs of mandamus and hear appeals from district courts and administrative agencies.

Currently, there are 108 circuit judges in 56 judicial circuits. One judge may serve more than one county within a circuit. Some circuits contain only one county but have several judges, depending on population and caseload. Circuit judges serve eight-year terms.

The district court, often referred to as "the people's court," has limited jurisdiction, which means it hears only certain types of cases. Ninety percent of all Kentuckians who come into contact with the judicial system will appear in district court. Juvenile matters, city and county ordinances, traffic offenses, probates of will, felony preliminaries and civil cases involving \$4,000.00 or less are all heard in this court.

Cases involving guardianship, conservatorship, voluntary or involuntary commitment, and domestic violence and abuse are also heard in district court.

Currently, there are 129 district judges who serve 59 judicial districts in Kentucky. If a district is densely populated and has a heavy caseload, it may have one county with more than one judge. Rural areas may encompass more than one county, but have only one judge who travels from county to county to hear cases. District judges serve four-year terms.

Types of Court Cases

Most cases filed in circuit and district courts are categorized into **criminal** and **civil** suits.

Criminal cases are filed by the Commonwealth or individual counties against persons or organizations suspected of committing crimes. The Commonwealth or counties, represented by the office of the state Attorney General, Commonwealth Attorney or County Attorney, is responsible for filing charges against defendants and prosecuting such cases.

Civil cases most often involve disputes between individual citizens, government agencies, businesses or other organizations. Civil suits usually involve personal or property rights. Civil cases include, but are not limited to, divorce, breach of contract, personal or professional liability, traffic or other forms of accidents, adoption, guardianship, probate and landlord-tenant disputes.

In both criminal and civil cases, the individual or group filing the suit is the **plaintiff** and the individual or group the suit is brought against is the **defendant**.

Divisions of District Court

Small claims is a division of district court. It is an informal, inexpensive means for people to file claims in disputes that involve money or personal property valued at \$1,500.00 or less. Parties involved in small claims actions can represent themselves without an attorney.

During a small claims hearing, the two parties involved present their cases before a judge in an informal manner. Juries are not used. After the judge has heard both sides, a decision is made based on the facts presented and the applicable law. If a party is not satisfied with the judge's ruling, an appeal can be made to circuit court. This must be done within 10 days of the small claims decision, and is more complicated, usually requiring the services of an attorney.

The important points to remember about small claims actions are:

A small claims suit can be filed in the county where the person being sued lives or does business, or in the county in which the legal infraction took place.

It is important to file a suit immediately. Small claims involving oral contracts have a five-year statute of limitations and those involving written contracts have a fifteen-year statute of limitations.

A person may sue for actual damages and court costs only, and claims must involve \$1,500.00 or less. Criminal actions, slander, libel, alienation of affection, malicious prosecution and abuse of process are not handled in small claims court.

A favorable ruling does not guarantee the winning party will collect the amount awarded. The judgment is legally enforceable, but the court is not responsible for collecting the award.

A small claims suit is not a criminal action. A person cannot be jailed for failure to pay a judgment. However, a person may be held in contempt of court and incarcerated for failure to appear at a small claims hearing.

Like small claims, **juvenile court** is a division of district court. Cases involving children under the age of 18 are handled in juvenile court. Cases filed in juvenile court include dependency; neglect and abuse; status offenders, such as runaways, children who are consistently tardy from school, and those who have behavioral problems or are beyond adult control; and public offenders, which include children charged with misdemeanors and felonies. Children charged with more serious felonies like murder or rape, may be referred from juvenile court to circuit court. In circuit court, the child would be tried as an adult and if convicted, imprisoned.

In most cases, the first contact the child has with legal proceedings is through a court designated worker (CDW). CDWs interview children, review charges filed against them and advise the children about their rights. Uniform criteria determine which cases must be referred to formal court and which are eligible for informal processing. Generally, serious offenses and repeat offenders are processed in formal court before a judge.

Juvenile court hearings are usually less formal than other trial court sessions. Unlike district and circuit court hearings, which are open to the public, juvenile court hearings are confidential and closed to the public.

Children brought before juvenile court have the right to legal representation by a public defender. This applies to all cases.

THE JUDICIARY

Judicial Elections and Qualifications

Kentucky justices and judges are elected on a nonpartisan basis as required by state law. Supreme Court justices, Court of Appeals judges and circuit court judges are elected to eight-year terms. District court judges are elected to four-year terms.

Election eligibility requirements for judicial offices vary between court levels. Persons seeking the offices of Supreme Court justice, Court of Appeals judge or circuit court judge must be citizens of the United States and licensed to practice law in Kentucky for at least eight years prior to the election. Those seeking the office of district judge must be a United States citizen and licensed to practice law in Kentucky for at least two years prior to the election. Additionally, all judicial candidates are required to be residents of the state and the district or circuit in which they are seeking office for at least two years prior to taking office.



Vacancies in a judicial office are filled by gubernatorial appointment, or by special election, depending on when the vacancies occur.

Incumbent judges and candidates for judicial office are prohibited by law from participating in most partisan political functions. Incumbent judges and candidates may attend political gatherings to speak on their own behalf. However, they cannot identify themselves as members of a particular party. They cannot make pledges or promises of conduct in office beyond that of impartial performance of duties.

Judges and judicial candidates cannot be officers of political organizations, nor can they make speeches or solicit money on behalf of political organizations. They are also prohibited from raising money for their own judicial campaigns,

although they may establish committees to raise funds for their campaigns.

Judges may retain current judicial offices while seeking election to another level of court. They must resign from judicial office if they decide to seek a partisan office, such as Governor or Attorney General.

Judicial Duties and Responsibilities

The Kentucky Code of Judicial Conduct requires all judges to perform their duties of office impartially and diligently. Judicial duties of office always take precedence over all other activities. Judges must be faithful to state law and maintain professional competence. They are required to remain unswayed by partisan interests and fear of public criticism.

Judges must provide all parties involved in a case the right to be heard and the right to a prompt, impartial hearing. They must abstain from public comment concerning any pending court proceedings.

During a jury trial, the judge rules on questions of law and the jurors are the triers of the case facts. The judge decides what evidence is presented. He/She instructs the jury on issues to be decided and the rules of law that apply to the case. The judge declares the law as it is and cannot indicate to the jurors his/her favor.

All justices and judges in Kentucky are required to attain a minimum of 25 hours in continuing judicial education every two years. Judicial education programs are provided by the Administrative Office of the Courts' Education Services Division.

Judges are not responsible for:

...making statutes, laws or administrative regulations. Legislators make laws. The judiciary interprets laws. The courts may uphold these laws or determine them to be unconstitutional.

...bringing issues before the court or prosecuting cases. No matter how much a law may affect individuals or groups, judges may not determine the constitutionality of that law until someone adversely affected by it brings the matter to court. In criminal cases, the state or county prosecutor, not the judge, must initiate a case against an alleged offender. The authority of the court is limited to lawsuits brought before it and the issues to be decided in those suits.

...collecting small claims monetary judgments. Individuals, not the judges or courts, are responsible for collecting small claims awards. The judge only resolves the dispute. If a losing party refuses to pay a judgment within 10 days of the due date, the winning party may need to take further legal action. Circuit court clerks can provide the forms for initiating legal collection procedures.

...determining when or if an imprisoned person may be paroled. This decision is made by a parole board, not by a judge. Parole boards are not part of the state court system.

Judicial Conduct Commission

The Judicial Conduct Commission has jurisdiction to receive, review and act upon complaints filed against justices, judges and judicial candidates. The commission consists of six members who serve four-year terms. Membership includes one judge from the Court of Appeals, circuit court and district court, all of whom are elected by judges from their respective courts. The three remaining commission members include one representative appointed by the governing body of the Kentucky Bar Association, and two citizens-at-large members appointed by the Governor.

The Judicial Conduct Commission hears complaints concerning misconduct in office, failure to perform judicial duties, incompetence, habitual intemperance, violations of the Code of Judicial Conduct, persistent refusal to conform to Supreme Court policies and conviction of a felony crime. If a justice, judge or candidate for judicial office is found guilty of

one or more of these counts, the commission has the power to impose sanctions such as: suspension or disbarment from law practice, admonition, private or public reprimand or censure, suspension without pay and removal or retirement from judicial office.

JUDICIAL SUPPORT STAFF

Clerks of Court

Kentucky law provides there be clerks to serve the appellate courts as well as the trial courts.

The clerk of the Supreme Court and the Court of Appeals are appointed positions and the clerks serve at the courts' pleasure. The appellate court clerks perform duties as assigned to them by the courts. They collect all fees for services rendered by their offices and deposit these monies into the state treasury. In addition, the clerks are responsible for the custody, control and safe storage of all appellate court records.

The circuit court clerks serve both the circuit and district courts. They are elected on a partisan basis for six-year terms. One clerk is elected from each county. They are the administrative and clerical officers of the judicial system. They are prohibited from practicing law.

To seek the office of circuit court clerk, a person must be at least 21 years old, a citizen of the state of Kentucky, a resident of the state of Kentucky for at least two years and a resident of the county for at least one year prior to taking office. The candidates must pass a competency examination given by the Administrative Office of the Courts to seek the office of circuit court clerk.

Responsibilities of the circuit court clerks are preparing bonds and approving sureties thereon; administering oaths and affidavits; maintaining records, files and dockets; collecting fees, fines and bond money; and paying jurors, commissioners and witnesses. They also issue driver licenses, summons

jurors and operate tape recording equipment. In the absence of all judicial officers, the circuit clerk may issue warrants prepared by the Commonwealth or County Attorney.

The Administrative Office of the Courts

The Administrative Office of the Courts (AOC) was established in 1976. It serves as staff for the Commonwealth's Chief Justice of the Supreme Court. According to the state constitution, the AOC performs various duties under the supervision of its administrative director including:

- acts as fiscal agent* of the Court of Justice. Its staff prepares the budget draft biannually and administers the judicial budget. The Kentucky unified court system is funded by state appropriations. Generally, the Court of Justice budget represents just over two percent (2%) of the total state general funds appropriated for each biennium. The Court of Justice budget is used to pay all expenses of the state court system including salaries of elected officials and non-elected personnel, travel expenses, facilities and office supplies and equipment. All revenues collected by the Court of Justice are deposited into the state treasury for general fund disbursement. Certain fees, however, are earmarked for distribution to specific funds.

- maintains data processing systems* for the purpose of publishing statistical reports, evaluating special projects and operating case management systems.

- disperses and maintains supplies and equipment* for the entire court system, administers local court facilities programs and provides support for regional administration of trial courts, boards and commissions.

- administers the personnel policies and payroll* of the Court of Justice

- regulates its accounting and records procedures.*

-oversees the state pretrial and juvenile services programs and supervises the State Law Library.

-provides educational programs for judges, clerks and support staff

-prepares, publishes and prints manuals, forms, stationery and other materials

-handles press and public information for the courts.

Pretrial Services

The Kentucky Pretrial Services Division was created in 1976 to assist the state's trial court judges in reaching knowledgeable decisions relating to the release from custody of persons awaiting trial on criminal charges. Kentucky was the first and remains the only state in the nation to statutorily abolish the practice of bail bonding for profit and to replace it with pretrial services.

Pretrial officers interview defendants within 12 hours after their detention. From these interviews, the officers gain insight into the defendants' backgrounds, prior criminal histories, community ties, among other things, and report findings to the trial judges. This process enables judges to make more knowledgeable decisions relating to bail and other pretrial issues.

Juvenile Services

In 1986, the Kentucky General Assembly passed the new Unified Juvenile Code, establishing the Juvenile Services Division of the AOC. This division maintains a statewide Court Designated Worker (CDW) Program. Each of the 59 judicial districts has the services of a CDW who works 24 hours a day, seven days a week.

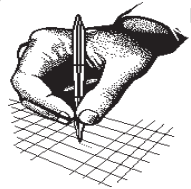
The CDW program is a three stage intake process for juveniles who have public or status offense actions brought

against them. The stages include the release from custody, the preliminary inquiry and the formal conference.

If a police officer has taken a juvenile into custody and is unable to release the child, the CDW is contacted. The CDW may then release the child to his or her parents, guardians, relatives or an emergency shelter. The CDW may also contact a district judge who may authorize the detention of the child if a serious offense has been committed. A detention hearing must be held within 24 hours to determine further action on the case.

Private citizens, businesses, law enforcement agencies, schools and parents have the right to file a formal complaint with the CDW. The county attorney reviews all public offense cases for sufficient probable cause before the CDW proceeds.

The CDW conducts a preliminary inquiry interview for all public and status offense case. During the preliminary inquiry, charges are reviewed and the juvenile is advised of his or her rights. Uniform criteria determine which cases are referred to court for formal processing and which are processed by the CDW.



If eligible for informal processing, a formal conference is held and the juvenile may enter into a diversion contract with the CDW. The diversion agreement is a voluntary contract negotiated between the juvenile and the CDW, which serves to resolve the complaint.

The terms of the diversion are relative to the offense and may include restitution, community service, seminar attendance, letters of apology, counseling, drug assessments and other appropriate terms. Diversion agreements are supervised by the CDW and cannot exceed six months in duration. If the juvenile completes the conditions, the charge is considered dismissed. Non compliance results in a formal court appearance.

CITIZEN PARTICIPATION IN COURTS

Jurors

By order of the Kentucky Supreme Court, effective November 15, 1991, all jurors are selected by computer. A chief judge, with the approval of the Chief Justice, must request the selection of jurors from a computer containing a list of registered voters and licensed drivers in the county. Lists of potential jurors are then delivered to the circuit clerk in Kentucky's 120 counties.



In order to qualify for jury service, a person must be at least 18 years of age, a United States citizen, a resident of the county in which the court is to be held and able to speak and understand English. Anyone who has served on a jury within a 12 month period, is under indictment, or has been convicted of a felony and has not been pardoned by the Governor, is ineligible for jury service.

When a person is sworn in as a juror, he or she accepts the responsibility of ensuring the rights of persons involved in litigation are upheld. Jurors must act in a professional manner. During a trial, jurors must listen carefully to all questions, testimony and instructions. Personal convictions and emotions must be placed aside, and cases must be determined strictly from the evidence presented and instructions provided by the court. It is important that all jurors form and express their opinions only after all evidence has been presented and deliberations have begun.

Jurors should not discuss cases with anyone, not even family members, prior to deliberations. They should not research cases through the news media, nor should they make independent investigations or visit places involved in cases.

Judges are limited in what they can say to jurors.

Judges may instruct jurors as to the law applicable in each case, but a judge cannot express opinions concerning guilt or innocence of the parties involved.

In circuit court civil cases, three-fourths of the jurors (9 of 12) must agree in order to return a verdict. In district court civil cases, five-sixths of the jurors (5 of 6) must agree in order to return a verdict. In criminal cases, all jurors must agree to reach a verdict.

Being a member of a jury is an important role citizens play in the justice system. One of our guaranteed rights is a trial by a jury of our peers.

Witnesses

Another way a person may be involved in the judicial system is as a witness in a trial. A jury's verdict can be used only on the evidence presented in the courtroom. Since most evidence is presented in the form of witness testimony, the role of the witness is very important.

A witness is only obligated to appear for a court date if legally served with a subpoena. If an individual has been served with a subpoena and does not appear before the court, the person may be charged with contempt of court and arrested.

Attorneys for both sides involved in a case are encouraged to subpoena witnesses, even if witnesses are relatives of their clients. If an attorney does not subpoena witness, the client's right to a fair trial could be jeopardized should a witness fail to appear in court. The judge is not obligated to delay trial proceedings because an unsubpoenaed witness misses a court hearing.

During trials, counsel for either side can request separation of witnesses. If the judge grants this motion, witnesses are held in isolation outside the courtroom. This way, witnesses are prohibited from hearing testimony of other witnesses.

Each witness appears separately in court to allow the judge and jury to hear testimony that cannot be swayed by what one witness previously testified.

Witnesses should not be intimidated by subpoenas. It is a constitutional right of the Commonwealth and the defense to be able to call witnesses through subpoenas. Witnesses must remember, whether they are subpoenaed or not, that they are obligated to tell "the truth, the whole truth and nothing but the truth" when under oath. Witnesses can be prosecuted by the state on perjury charges if they do not tell the truth and a conviction can lead to imprisonment.

Foster Care Review Boards

Kentucky's Foster Care Review Boards program is administered through a division of the AOC. There are approximately 140 review boards, consisting of more than 750 volunteers statewide.

Volunteers review the case files of more than 7,500 children who are removed from their natural parents and placed in foster care, child care facilities or with relatives. The purpose of the review is to guarantee children receive adequate and appropriate care while in alternative placement and ensure every effort is being made to locate permanent placement for the children so they do not linger in the state foster care system.



Each review board consists of at least three people, with two having backgrounds in law, medicine, education, therapy or social work. A manager and field coordinators recruit, facilitate training and provide technical assistance to volunteer board members.

Volunteers are required to attend an initial training session for certification. Thereafter, a minimum of six (6) continuing training hours are required annually to remain certified.

These hours are earned by attending the annual conference, regional meetings, instructing initial training sessions and attending other approved seminars or workshops concerning children's issues.

Each board elects a chair and vice chair. The chair of each local board serves on the State Review Board, which establishes and approves training for all board members. The state board also makes recommendations to the Chief Justice, Governor and General Assembly concerning changes in foster care laws, policies and procedures.

Court Appointed Special Advocates (CASA)

Kentucky's CASA program, designed to ensure that the best interests of abused, neglected and dependent children are served, operates under permissive legislation. CASA projects may be established by the chief judge in each judicial district.

The first CASA program in Kentucky was organized in Louisville in 1985 by the Louisville chapter of the National Council of Jewish Women, the Jefferson District Court and the Jefferson Child Abuse Authority. Today, CASA programs exist in numerous counties across the Commonwealth. Nationwide, there are over 200 CASA programs in 50 states.

Anyone who is at least 18 years old and dedicated to improving the lives of abused, neglected and dependent children is eligible to become a CASA volunteer. No special educational background is required. Volunteers must take an oath of confidentiality.

CASA volunteers receive 20 hours of initial training, bimonthly continuing training as well as additional assistance from CASA staff members when needed. CASA volunteers are assigned one or two cases at a time and spend an average of four (4) hours on their cases every week.



CASA volunteers play a vital role in providing more one-on-one assistance to children placed in alternative care. It is important to remember CASA volunteers compliment social workers, they do not replace them.

COURT-RELATED AGENCIES

Bailiffs

By statute, the sheriff's office is responsible for providing security services to all Court of Justice facilities. The sheriff, deputy sheriff or bailiff attends all circuit and district court sessions to keep order in the courtroom.

The sheriff's office transports all prisoners to court. In addition, the officers are responsible for serving all legal papers such as warrants, summons or subpoenas. Should it be necessary for a jury to be sequestered, it is the sheriff's responsibility to transport them to their accommodations, provide security and any other services that may be needed.

Prosecutors

Attorney General

The Attorney General's office represents the interests of Kentucky in all legal actions involving the state of Kentucky as a defendant, plaintiff or prosecutor, and in all criminal and civil appeals. The office provides legal counsel to state boards, agencies and officers. It also issues formal opinions concerning legal and government related questions.

The Attorney General's office is organized into several divisions including:

The *Civil and Environmental Division* which represents the state in all civil actions and produces the majority of Attorney General's opinions relating to the question of law.

The *Criminal Appellate Division* which represents the public and crime victims in all appeals of criminal convictions in state appellate courts.

The *Special Investigations Division* which investigates and prosecutes criminal activities involving welfare fraud, food stamp trafficking, coal industry fraud and activities involving illegal controlled substances.

The *Special Prosecutions Division* which provides investigative and prosecutorial services to all Commonwealth and county attorneys, investigates and prosecutes child abuse cases and state medicaid fraud law violations as well as other offenses.

Other divisions of the Attorney General's Office are the *Child Support Enforcement Commission*, the *Prosecutors' Advisory Council Division* and the *Medicaid Fraud and Abuse Control Division*.

The Attorney General's office also represents consumers by enforcing the Consumer Protection Act, intervening in utility and rate intervention cases and providing assistance and information to crime victims through its Victims Advocacy Program.

Commonwealth's Attorney

The Commonwealth's Attorney attends all circuit court sessions held within his or her judicial circuit. The primary responsibilities of this person are to prosecute all violations of criminal and penal laws; present evidence to the grand jury of such violations; attend all civil cases in which the Commonwealth has an interest; investigate all unsatisfied judgments in favor of the Commonwealth; and petition the Governor for extradition of persons charged with, or convicted of crimes who have fled the state.

A Commonwealth Attorney is elected on a partisan basis from the county or counties within the judicial circuit he/she represents for a term of six years. In circuits that contain first or second class cities, or an urban-county government, the Commonwealth Attorney is prohibited from engaging in the practice of law.

County Attorney

The County Attorney attends all district court sessions within his or her home county. The primary responsibilities of this person are to prosecute all violations of criminal and penal laws; handle felony cases until they are transferred to circuit court; prosecute misdemeanors, juvenile and traffic cases; and petition the Governor for extradition of persons charged with, or convicted of crimes who have fled the state.

In addition, the County Attorney is responsible for aiding a petitioner who is seeking the appointment of a conservator or guardian for a disabled person in district court, assisting with the collection of delinquent child support payments and representing the Commonwealth in involuntary commitment proceedings, among other duties. The County Attorney, in counties containing a first or second class city, or urban-county government, must also attend all civil cases in which the Commonwealth has an interest.

County Attorneys are elected on a partisan basis from the counties they represent. They are elected to four-year terms of office. All county attorneys are eligible to practice law privately in addition to handling the duties of their elective office provided there is not a conflict of interest.

Defense Counsel

Public Advocate

The Kentucky Department of Public Advocacy, which represents indigent persons charged with crimes, was established by the state legislature in 1972.

The department is divided into two sections: Defender Services and Protection and Advocacy Services. A Law Operations Division supports the two sections.

Defender Services provides legal representation to indigent defendants on the trial court, appellate court and post conviction levels. At the trial court level, the Department of Public Advocacy has field offices across the state to offer indigent legal services for surrounding counties.

The Kentucky trial courts must appoint a public defender to an indigent person who has been charged with a crime and faces either imprisonment or a fine of \$500.00 or more as well as indigent persons who face a contempt of court proceeding. This does not apply, however, in most traffic cases. The needy person shows inability to afford legal representation by completing an "Affidavit of Indigency." Individuals are not usually eligible for public defender representation if they own property; can afford to post bail; own one or more vehicles; or do not receive public financial assistance, like welfare.

In all cases, an administrative fee must be paid for representation by a public defender, unless waived by the court. The fee is based upon an individual's ability to pay. The fee is assessed by the court, and is payable to the circuit court clerk. Public defenders cannot charge for their services.

If an indigent person is convicted of a crime in a trial court, the person may appeal the conviction to the next highest court with the assistance of a public defender. At the appellate court level, public defenders are responsible for filing briefs and other necessary pleadings for indigent clients as well as making appearances.

Post conviction practice involves providing legal services to incarcerated clients. This includes preparation of cases for disposition by negotiation, litigation or counseling and representation of clients for interstate agreements on detainers and parole revocation hearings.

Protection and Advocacy (P & A), a division of the Department of Public Advocacy, protects and advocates the rights of Kentuckians with disabilities. P & A assists clients in understanding options, expressing preferences and ensuring these preferences are heard and acted upon. Through case direction from its clients, P & A represents its clients' expressed disability-related interest in community and institutional settings across the state.

The P & A's systems advocacy efforts are driven by the need to establish and expend rights and service options and to improve the quality and responsiveness of the existing system of services.

P & A aggressively opposes system changes that could result in reduction of rights/service options, discrimination, exploitation, or limit informed participation and consent of persons with disabilities in decision making forums.

P & A has federal and state standing to represent clients' disability-related complaints in and out of court.

Law Operations provides support staff for statistical, personnel and administrative assistance.

Legal Aid Programs

Legal Aid Societies are individual, private non-profit groups that represent indigent persons in civil court cases without charge. There are seven (7) legal aid programs in Kentucky serving clients throughout the state. Persons must be able to prove indigency in order to receive representation from a Legal Aid group.

Federal guidelines, based on income and assets, are used to determine if a person qualifies for this kind of representation.

Civil matters handled by Legal Aid in trial courts include cases involving abuse, garnishment, child custody, landlord/tenant disputes, consumer protection as well as public benefits like supplemental social security, medicaid, AFDC, or food stamps.

Although Legal Aid groups primarily represent indigent clients on the trial court level, they also represent clients on the appellate court level if necessary.

Probation and Parole

In Kentucky, Probation and Parole is a division of the Corrections Cabinet, not the Court of Justice. The state probation and parole system is divided into 13 districts which serve the entire state. Among their court-related responsibilities, probation and parole officers prepare pre-sentence investigation reports for felony cases and sometimes for misdemeanor cases. These reports contain a recommendation for incarceration or probation of the defendant, and a treatment plan for offenders. Officers supervise offenders if they are probated. Terms of probation are determined by judges. Violation of probation agreements can lead to rearrest by officers and revocation of probation.

Prisoners are not paroled by judges, rather the decision is made by a parole board. Probation and parole offices supervise parolees. Violations of parole may lead to rearrest in or out of state and possibly revocation of parole.

Workers' Compensation Board

The Workers' Compensation Board, comprised of three full-time members appointed by the Governor, serve four-year terms. The board members are selected from among persons recommended by a nominating committee and must have the same qualifications as state Court of Appeals judges.

All claims under the Workers' Compensation Act are filed with the Department of Workers' Claims. The initial determination in all contested claims is made by an administrative law judge who is appointed by the board, with the approval of the state Senate. Sixteen administrative law judges serve the Commonwealth and are responsible for approving all settlements. These judges have the same qualifications as circuit court judges.

Pre-hearing conferences and hearings are held throughout the state at locations convenient to employees. All appeals from final orders and decision of administrative law judges go to the board. Appeals from a board decision can be taken to the state Court of Appeals. Further appeal, as a matter of right, can be taken to the Kentucky Supreme Court.

A full-time commissioner, who is appointed by the Governor, serves as the chief administrator of the Department of Workers' Claims.



Crime Victims' Compensation Board

The Crime Victims' Compensation Board was established by the state legislature in 1976 to provide assistance in paying medical expenses, funeral expenses and lost wages/support to victims or their families who are physically injured as a result of a violent crime.

State trial courts collect a \$10.00 fee for the Crime Victims Compensation Fund on every conviction of a jailable offense.

Any person who has suffered bodily injury as a victim of a violent crime committed in Kentucky, can file an application for assistance with the board. If the crime results in the death of a victim, a claim may be filed by a surviving spouse, parent, child or other person dependent upon the victim for their principal support.

Certain requirements must be met before a claim can be filed including:

- *The victim must report the crime to the proper authorities within 48 hours and must cooperate with law enforcement agencies.

- *The victim must qualify under the board's definition of serious financial hardship.

- *The victim cannot be a person who was in jail or an institution operated by the Cabinet for Human Resources at the time the crime was committed.

An application form must be filed with the board within 12 months after the occurrence of the crime. There is no filing fee. The board investigates all claims and then determines if the applicant is eligible for compensation. If the victim is eligible, the board determines what compensation may be granted. Possible compensation includes reasonable medical expenses, loss of earnings or support up to \$150.00 per week and funeral expenses up to \$3,500.00. There is a maximum award of \$25,000.00. Funds are not granted for pain and suffering or lost, stolen or damaged property.

Cabinet for Human Resources

Comp Care Services

District court has jurisdiction over voluntary and involuntary mental commitments, guardianship and conservatorship of disabled persons. When individuals are committed by district courts, however, it is the responsibility of the Cabinet for Human Resources' Department of Mental Health and Retardation to provide quality care for these persons.

The Department of Mental Health and Retardation has 11 residential facilities which provide treatment and care for persons with a mental illness, prevent mental illness and promote mental health. The department also has 14 comprehensive care centers to assist people with mental retardation, emotional, and alcohol or drug related problems. These facilities and centers are located throughout the state.

Foster Care

Children may be placed in foster care through several means including commitment by district court; commitment by circuit court order terminating parental rights, thus making the child a ward of the state; voluntary commitment by parent or legal guardian; and through district court order requiring "temporary" or "emergency" custody of a child by CHR's Department of Social Services.

Foster care may be appropriate under the following conditions:

- *parents are not able to provide appropriate supervision and proper physical and emotional care
- *children are in physically, emotionally or sexually abusive situations
- *severe parent-child conflicts exist

*parents or children are unable to control behavior

*voluntary placement for purposes of adoption

Juvenile Detention

Juvenile detention is within the jurisdiction of the district court. Any child who is not yet 18 years old and has been charged with a public or status offense, or has been found to be dependent, neglected or abused, is brought before the juvenile court division of district court.

After adjudication, the CHR's Department for Social Services has the statutory responsibility to provide appropriate services to the children who have been committed or probated to the cabinet under the Unified Juvenile Code. These services include, but are not limited to, assisting the courts by preparing reports concerning children appearing before court, helping children and parents through counseling, supervision and other community and residential services. The residential services include day treatment, group homes, residential services facilities and clinical services facilities.

Secure juvenile detention facilities are located in Fayette and Jefferson counties. These centers are not attached to adult jails or lock-ups and have separate staffs. They are required by law to be in compliance with regulations developed by the state Justice Cabinet, which inspects each secure detention facility to ensure compliance.

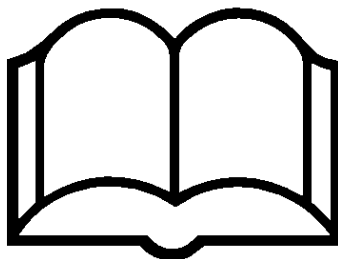
CONCLUSION

The Kentucky Court of Justice and all court-related agencies serve the citizens of the Commonwealth. In its twentieth year of existence, our state court system has been nationally recognized for advancements in many areas including technology, domestic violence and pretrial services.

Learning about the court system provides us with a better understanding of the judicial system and makes us all better citizens. Remember, whether you visit the court system once or several times during the course of your life, it is important to understand how the system works for you.

If you are interested in more information about the court system, call or write the Administrative Office of the Courts' Media & Public Information Office, 100 Millcreek Park, Frankfort, KY 40601, (502) 573-2350.

GLOSSARY OF JUDICIAL AND LEGAL TERMS



Acquittal - The legal and formal certification of the innocence of a person charged with a crime.

Adjudication - The judgment reached in a judicial procedure.

Adversary System - A judicial system in which opposing parties present their arguments in a case before a trial court.

Affidavit - A written statement originally made under oath before a notary public or other authorized official.

Affirm - The ruling of an appellate court that the judgment of a lower court is proper and should not be overturned.

Allegation - An assertion made by a party in a court proceeding which must be proved or supported with evidence during the trial.

Appeal - The party appealing a lower court decision or judgment to a higher court.

Appellant - The party appealing a lower court decision or judgment to a higher court.

Appellee - The party against whom an appeal is filed.

Arraignment - The court appearance of a person accused of criminal behavior to hear the charges against him or her and to enter a plea of guilty or not guilty.

Bail - Security, usually in the form of money or property, exchanged for the release of a jailed person to insure his or her appearance in court.

Bailiff - An officer from the sheriff's department who maintains courtroom order and jury custody.

Bar Association - A collective body of attorneys qualified to practice law in a particular jurisdiction, such as the American Bar Association, or Kentucky Bar Association.

Brief - A written or printed document prepared by counsel to file in court, usually setting forth both facts and law in support of a case.

Case - Any proceeding action, cause, suit, lawsuit or controversy initiated through the court system by filing a complaint, petition or indictment.

Case (Capital) - A criminal case in which the death sentence may be imposed.

Charge to the Jury - A judge's instructions to the jury regarding the laws pertaining to a case.

Chief Justice - Presiding justice of the Supreme Court and the administrative head of the state Court of Justice who is responsible for its management and operation. A Chief Justice is elected every four years from among members of the state Supreme Court.

Chief Judge - The administrative head of a particular division of state court, such as the Court of Appeals, Circuit Court or District Court, who is responsible for the management of individual courts. The Court of Appeals has one chief judge elected by members of the Court. Chief judges of the Circuit or District court serve circuits or districts in which there is more than one judge. These chief judges are either appointed by the Chief Justice or elected by fellow members of their respective courts.

Circuit - A geographical court jurisdiction that hears all civil matters involving more than \$4,000. It has jurisdiction of capital offenses and felonies, divorce, adoption, termination of parental rights, land title problems and contested probate of wills.

Civil Suit - A suit involving a dispute between two or more individuals or corporations, and usually involving a judgment awarding monetary damages.

Claim - The assertion of a right to money or property.

Closing Argument - A summary of evidence presented to the jury by attorneys involved in a trial.

Codicil - A supplement or addition to a will.

Commute a Sentence - The judge's ability to reduce the recommended sentence of a jury.

Complainant - The plaintiff in a case.

Complaint (Civil) - Statements by the plaintiff making claims against the defendant.

Complaint (Criminal) - A statement charging an individual with a criminal violation.

Concurrent Sentences - Sentences for multiple crimes that are served at the same time, or concurrently.

Consecutive Sentences - Sentences for multiple crimes that succeed one another.

Contempt of Court - Disregard or disobedience for the authority of a court of law.

Conviction - The finding that a person is guilty beyond a reasonable doubt of committing a crime.

Counterclaim - A claim filed by a defendant against the plaintiff in a civil action.

Cross Examination - Questioning of a witness by opposing counsel.

Defendant - The person against whom a civil lawsuit is started, or a crime is charged.

Deliberations - Jury discussions and consideration of the facts presented prior to reaching a verdict, or decision.

Deposition - Testimony taken under oath and outside the courtroom.

Direct Examination - Questioning of a witness by counsel who introduced the witness.

District - A geographical court jurisdiction composed of one or more counties.

District Court - A court of limited jurisdiction that hears civil cases involving \$4,000 or less, juvenile matters, city and county ordinances, misdemeanors, traffic offenses, probate of wills and felony preliminaries. Guardianship and conservatorship for disabled persons are in district court, as well as voluntary and involuntary mental commitments, and cases relating to domestic violence and abuse. Small claims court is also a part of the District Court.

Due process - A constitutional provision guaranteeing an accused person a fair and impartial trial.

Evidence - Any legally presented proof by a witness, records, documents, etc. during the course of a trial.

Exhibit - Papers, documents, or other material objects received by the court and offered as evidence during a trial or hearing.

Felony - A serious criminal offense punishable by imprisonment exceeding one year.

Indictment - A grand jury's written accusation charging that a person or business allegedly committed a crime.

Injunctions - Court orders enjoining or prohibiting parties in court or legal matters from specific courses of action.

Instructions - Direction given by a judge to the jury regarding the law in a case.

Judge - An elected or appointed official with the authority to hear and decide cases in a court of law.

Jury - People selected as prescribed by law to render a decision or verdict in a trial.

Law - Rules and principles of conduct supported by the legislature, court decisions or local customs.

Litigant - Any person or group engaged in a lawsuit.

Litigation - A legal contest in court.

Misdemeanor - A less serious criminal offense punishable by a fine or imprisonment not to exceed one year.

Oath - A written or oral pledge to keep a promise to speak the truth.

Objection - A statement by an attorney opposing specific testimony or admission of evidence.

Opening Statement - An outline of anticipated proof presented to the jury by the attorneys in a case.

Overrule - The court's denial of a motion or objection raised to the court.

Parties - Those persons, corporations or associations who have filed a lawsuit or are defendants in a lawsuit.

Plaintiff - The person or party filing suit in a court against another person or group.

Penal Code - A group of laws and penalties relating to criminal acts.

Perjury - The act of a witness providing false or misleading testimony while under oath in criminal court proceedings.

Peremptory Challenges - The removal of members from a jury for no stated reason or cause.

Preliminary Hearings - Synonymous with “preliminary examination.” The court hearing given a person charged with a crime to determine whether he or she should be released or jailed.

Pleadings - The offering of pleas of a specific nature, such as guilty or not guilty, to a court.

Probable Cause - A reasonable belief that a crime has been or being committed; the basis for all lawful searches.

Probate - The legal process of determining the validity of a will.

Probation - Suspending the sentence of a convicted person and granting supervised freedom on the promise of good behavior.

Prosecution - The act of pursuing a lawsuit or criminal trial; the prosecution in a criminal suit is the state.

Prosecutor - The public official (Commonwealth’s or County attorney, or Attorney General or assistant Attorney General) who performs the function of a trial lawyer for the state or county.

Public Offense - Public offenses are those committed by juveniles that are the same as adult crimes, including felonies and misdemeanors.

Rebuttal - The introduction of evidence to discredit statements of witnesses.

Redirect Examination - Follows cross examination and is exercised by the counsel who introduced the witness.

Sequester a Jury - To place members of a jury into 24 hour a day seclusion until they are able to reach a verdict.

Status Offense - Non-criminal forms of misbehavior, such as running away from home, skipping school, or being beyond the control of parents or teachers.

Statutes - Laws passed or enacted by the state legislature.

Statute of Limitations - A law setting a time limit on enforcement of rights in certain cases.

Subpoena - A written legal notice requiring a person to appear in court to provide testimony as a witness.

Sustain - The court's acceptance of any motion or objection.

Trial - The examination of issues regarding fact and law before the court.

Venire - A group of sworn jurors.

Venue - The locality where a crime was committed. Under a "change of venue," the locality in which a trial is to be held can be switched to another location if it is believed that a fair trial cannot be had in the locality where the crime was committed.

Verdict - The final formal trial decision made by a jury, read before the court and accepted by the judge.

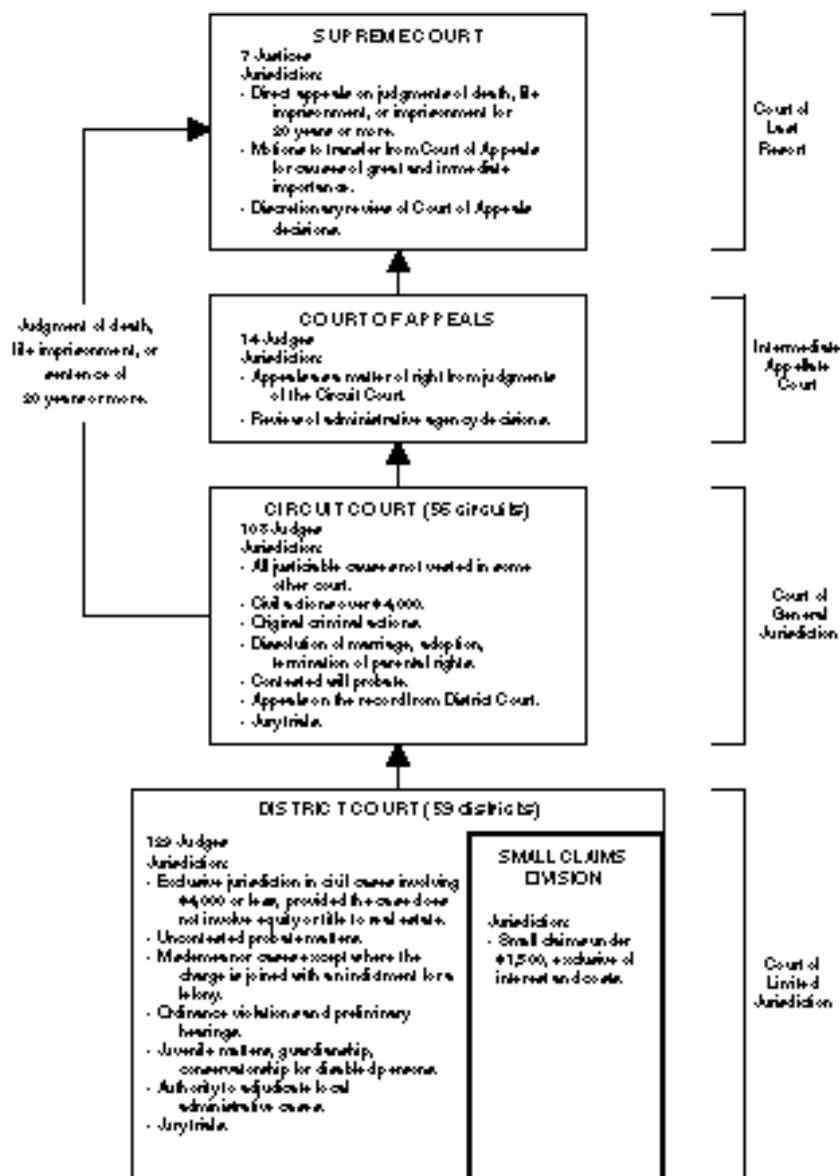
Voir Dire Examination - The preliminary questioning of jurors to establish their qualifications.

Witness - A person testifying under oath in court, who possesses factual knowledge about a case.

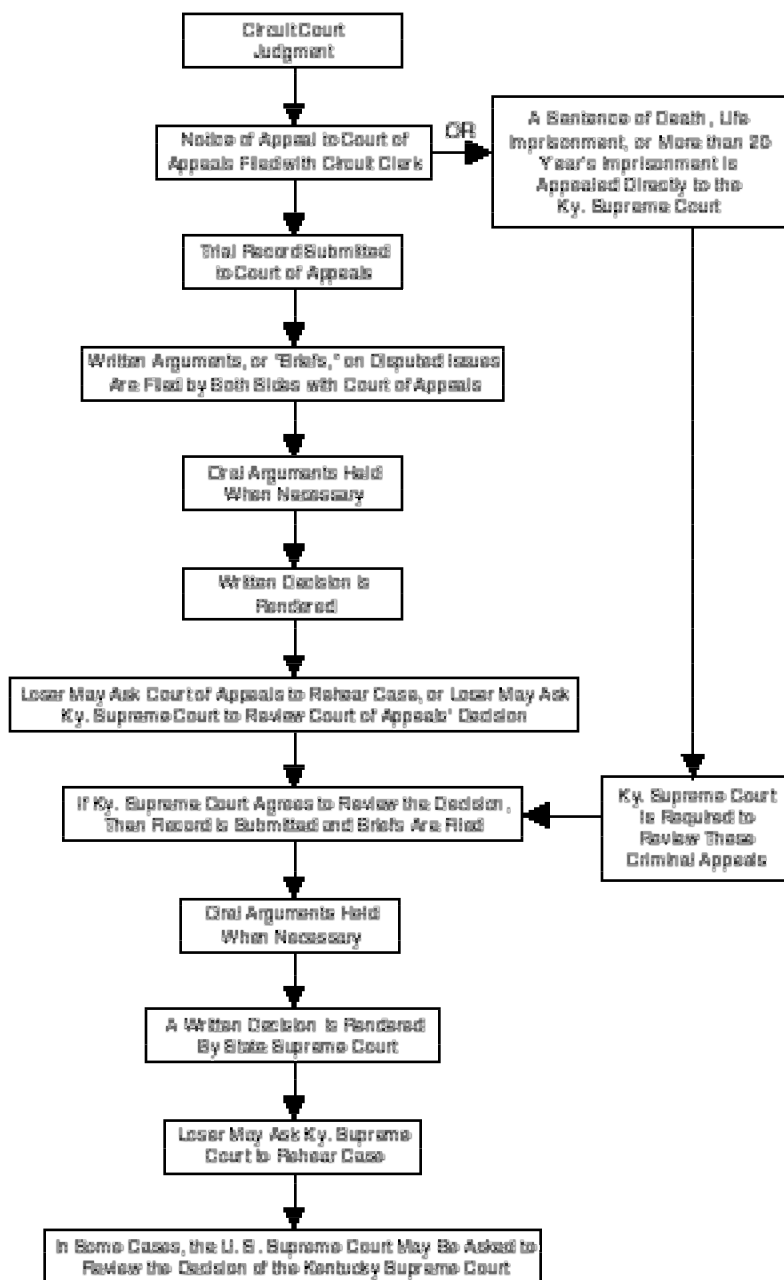
Writ of Mandamus - An order issued by a court of superior jurisdiction commanding performance of a particular act by an inferior court or public official.

Writ of Prohibition - An order issued by a court of superior jurisdiction commanding a lower court to vacate a ruling issued in a suit.

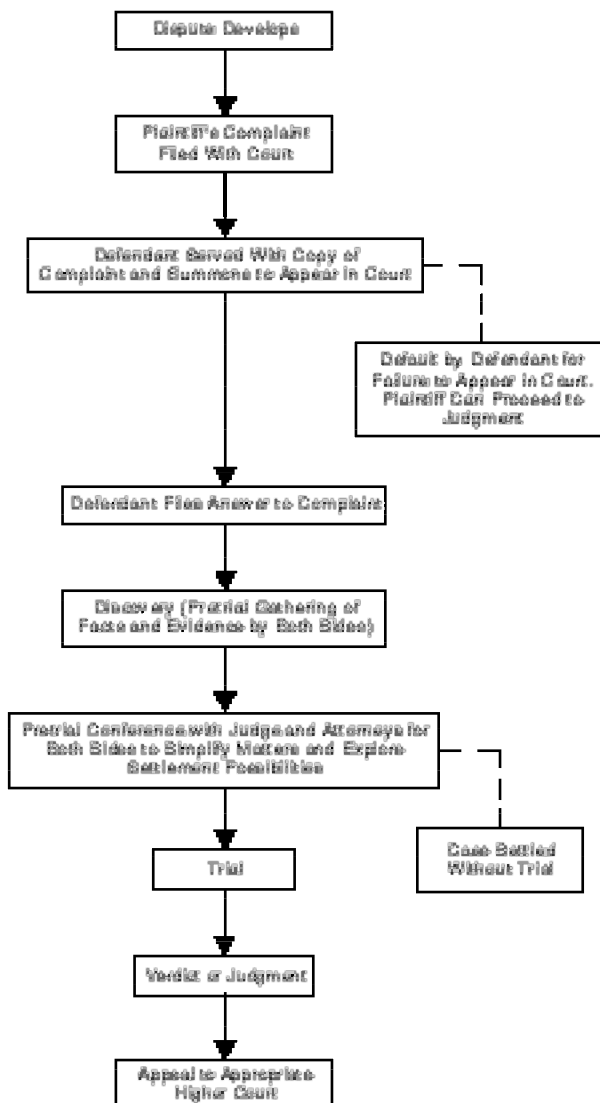
KENTUCKY COURT SYSTEM



KENTUCKY APPELLATE PROCESS



KENTUCKY CIVIL CASE PROCESS (Simplified)



KENTUCKY FELONY CASE PROCESS (Simplified)

